

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

OMAN GUTIERREZ,

Plaintiff,

v.

ANTHONY ANNUCCI, et al,

Defendants.

DECISION AND ORDER
21-CV-699-A

This prisoner civil rights case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1) for the performance of pretrial proceedings.

On September 24, 2024, Magistrate Judge McCarthy issued a Report and Recommendation (“R&R”) (Dkt. No. 71) recommending that the Court grant Defendants Anthony Annucci, Joseph Bellnier, Lucien LeClair, and Stewart Eckert (hereinafter “Individual Defendants”) motion to dismiss (Dkt. No. 62).

Federal Rule of Civil Procedure 72(b)(3) provides, “[t]he district judge must determine de novo any part of the magistrate judge’s disposition *that has been properly objected to*” (emphasis added). Here, no objections to the R&R have been filed. “When no timely objection is filed, the [C]ourt need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” 1983 Advisory Committee Note to Fed. R. Civ. P. 72(b); *see Patton v. Ford Motor Co.*, 14-CV-0308-RJA-HBS, 2017 WL 2177621, 2017 U.S. Dist. LEXIS 76148, *5 (W.D.N.Y. May 18, 2017) (same).

The Court finds no clear error with respect to Magistrate Judge McCarthy's recommendations. As such, it is hereby

ORDERED that pursuant to 28 U.S.C. § 636(b)(1) and for the reasons set forth in the R&R, the Individual Defendants' motion to dismiss (Dkt. No. 62) is GRANTED, in that all Plaintiff's claims against such Individual Defendants are DISMISSED.

The Clerk of Court shall enter Judgment consistent with this Decision and Order and take all steps necessary to close the case.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: November 19, 2024
Buffalo, New York